

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Fredric Sanai,

Lawyer (Bar No. 32347).

Supreme Court No. _____

ASSOCIATION'S PETITION
FOR INTERIM SUSPENSION
(ELC 7.2(a)(2))RECEIVED
SUPREME COURT
STATE OF WASHINGTON
08 JAN 31 4:49 PM
BY RONALD B. BLANKENHORN

As required by Rule 7.2(a)(2) of the Rules for Enforcement of Lawyer Conduct (ELC), the Washington State Bar Association (Association) petitions this Court for an Order suspending lawyer Fredric Sanai (Sanai) from the practice of law during the remainder of disciplinary proceedings against him. This petition is based on the Disciplinary Board's Order on Hearing Officer's Recommendation, entered January 25, 2008, and attached as Appendix A. The Disciplinary Board (Board) recommended that Sanai be disbarred for multiple violations of the Rules of Professional Conduct (RPC) involving abusive litigation tactics in multiple actions against his father and others.

BACKGROUND

Given ongoing activity in Sanai's litigation against his father and others, the Hearing Officer stayed the instant disciplinary proceedings

until April 2006, when the Association filed an Amended Formal Complaint and the Hearing Officer set an April 16, 2007 hearing date. After the Hearing Officer rejected Sanai's motion to move the hearing to Oregon, where Sanai lives and works, and after a federal judge denied his request to enjoin the disciplinary hearing, Sanai requested a last minute continuance for asserted health reasons. Except for a brief appearance by telephone on the second day of the hearing, when the Hearing Officer denied a renewed request for continuance, Sanai did not appear at the hearing.

On July 19, 2007, the Hearing Officer filed Findings of Fact, Conclusions of Law and Hearing Officer's Recommendation, attached as Appendix B. The Hearing Officer made extensive factual findings, found each of the alleged violations, and recommended disbarment.

Sanai filed a timely Brief in Opposition to Hearing Officer's Decision. He challenged several procedural rulings and sought to reopen the record, but he did not appeal the Hearing Officer's factual findings or legal conclusions. He presented oral argument by telephone to the Board, which rejected his claims and unanimously affirmed the Hearing Officer's disbarment recommendation.

NATURE OF THE MISCONDUCT WARRANTING INTERIM SUSPENSION

The Hearing Officer found Sanai violated RPC 8.4(n) (unfit to practice law) as alleged in Count 9 of the Amended Formal Complaint by “repeatedly violating court orders or rules, repeatedly filing pleadings, motions, appeals or other papers without merit, filing similar claims in multiple forums, otherwise delaying enforcement of his parents’ dissolution decree and by forcing his father to defend in multiple courts on multiple grounds.” Specific examples of his frivolous filings included his federal suit against the judicial officers who ruled against him in state court as alleged in Count 3 and his partition action filed in King County seeking to redistribute the dissolution assets already apportioned by his parents’ Snohomish County dissolution decree as alleged in Count 8.

LEGAL ARGUMENT

Under ELC 7.2(a)(2), following a disbarment recommendation from the Board, the respondent lawyer bears the burden of proving that he should not be suspended during the remainder of the proceedings. The Rule requires the lawyer to make an “affirmative showing” that the lawyer’s “continued practice of law will not be detrimental to the integrity

and standing of the bar and the administration of justice, or contrary to the public interest.”¹

The Rule presumes that once the Board has recommended disbarment, the lawyer should be suspended. This presumption does not arise merely from the potential for additional similar misconduct. Rather, the presumption recognizes that the Board recommends that a lawyer be disbarred only in cases of extremely serious misconduct, and that allowing such a lawyer to continue to practice as if nothing had happened injures the integrity of the profession and is contrary to the public interest.

In this case, Sanai repeatedly ignored court orders and rules during his ongoing quest to prevent his father from receiving his share of the dissolution assets, and he filed a plethora of motions and lawsuits to harass his father and anyone perceived as assisting his father.

CONCLUSION

Under ELC 7.2(a)(2), the Association asks the Court to issue an Order requiring that Fredric Sanai appear before this Court on a date certain to show cause why this Petition should not be granted. The

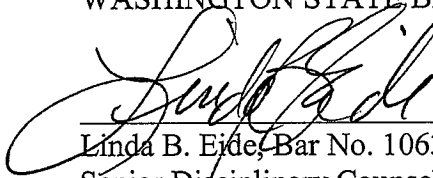
¹ This standard differs markedly from that required to justify an interim suspension during the course of disciplinary proceedings prior to the entry of an order by the Board. See ELC 7.2(a)(1) (Association must prove that the lawyer’s “continued practice of law poses a substantial threat of serious harm to the public.”)

Association further requests that the Court issue an order on that date immediately suspending him from the practice of law.

DATED THIS 30th day of January, 2008.

Respectfully submitted,

WASHINGTON STATE BAR ASSOCIATION

A handwritten signature in cursive script, appearing to read "Linda B. Eyde", is written over a horizontal line.

Linda B. Eyde, Bar No. 10637
Senior Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 733-5902

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

FILED

JAN 25 2008

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

FREDERIC SANAI,

Lawyer (WSBA No. 32347).

Proceeding No. 04#00044

DISCIPLINARY BOARD ORDER
ADOPTING HEARING OFFICER'S
DECISION

This matter came before the Disciplinary Board at its November 30, 2007 meeting on automatic review of Hearing Officer's decision recommending disbarment following a hearing.

Having reviewed the documents designated by the parties, the briefs and the applicable case law and rules, and having heard oral argument:

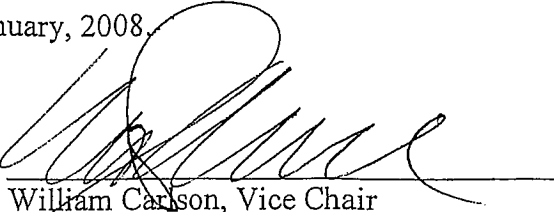
IT IS HEREBY ORDERED THAT the Findings of Fact, Conclusions of Law and Hearing Officer's Recommendation are approved.¹

¹ The vote on this matter was unanimous. Those voting were Andrews, Carlson, Cena, Coppinger, Darst, Fine, Kuznetz, Madden, Meehan, Meyers, Montez and Urena.

ORIGINAL

156

1
2 Dated this 25th day of January, 2008.

3
4 
5 William Carlson, Vice Chair
6 Disciplinary Board
7
8
9
10
11
12

13 CERTIFICATE OF SERVICE

14 I certify that I caused a copy of the order Adopting HO's Decision
15 to be delivered to the Office of Disciplinary Counsel and to be mailed
16 to Frederick Sanai, Respondent/Respondent's Counsel
17 at 535 NE 5th St. Rm 1016 Mt Rainier, by Certified/first class mail,
18 postage prepaid on the 25 day of January, 2008

19 Home Address

20 Rebecca Leary
21 Clerk/Counsel to the Disciplinary Board
22
23
24

EXHIBIT B

FILED

JUL 19 2007

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

IN RE:)	
)	Public File No. 04#00044
FREDRIC SANAI,)	
)	FINDINGS OF FACT, CONCLUSIONS
Lawyer (WSBA No. 32347).)	OF LAW AND HEARING OFFICER'S
_____)	RECOMMENDATION

In accordance with Rule 10.13 of the Rules for Enforcement of Lawyer Conduct (ELC), the undersigned Hearing Officer held the hearing on April 16, 2007 through April 18, 2007. Respondent Fredric Sanai did not appear at the hearing. Disciplinary Counsel Linda B. Eide and Scott G. Busby appeared for the Washington State Bar Association (the Association).

FORMAL COMPLAINT FILED BY DISCIPLINARY COUNSEL

The Amended Formal Complaint filed by Disciplinary Counsel charged Fredric Sanai (Fredric) with the following counts of misconduct:

Count 1 – filing multiple, meritless post-dissolution motions and/or other requests for relief in the trial and appellate courts, in violation of Rules of Professional Conduct (RPC) 3.1 and/or RPC 3.2 and/or RPC 4.4 and/or RPC 8.4(d).

Count 2 – filing and/or preparing lis pendens notices to cloud title to real property ordered

sold under his parents' dissolution decree and/or filing additional litigation used as a basis for filing additional lis pendens notices and/or otherwise attempting to delay or impede the sale of property ordered sold under the dissolution decree, in violation of RPC 3.4(c) and/or RPC 8.4(j) and/or RPC 4.4 and/or RPC 8.4(d) and/or RPC 8.4(a).

Count 3 – suing the judges and the court commissioner who denied his post-dissolution motions and/or other requests for relief, in violation of RPC 3.1 and/or RPC 4.4 and/or RPC 8.4(d).

Count 4 – signing and/or filing lis pendens notices in violation of the May 15, 2003 federal court order, in violation of RPC 8.4(j) and/or RPC 3.4(c) and/or RPC 8.4(d).

Count 5 – filing defamation actions against Sassan Sanai, MD (Sasson), William Sullivan (Sullivan) and Marsh, Mundorf, Pratt, Sullivan and McKenzie (MMPSM) in state and federal court, while ELC 2.12(b) or its predecessor RLD 12.11(b) provided that communications to the Association are privileged and “no lawsuit predicated thereon may be instituted against any grievant,” in violation of RPC 3.1 and/or RPC 8.4(l) and/or RPC 4.4 and/or RPC 8.4(d).

Count 6 – failing to serve other parties to the action with copies of his subpoena for records from Redmond General Insurance Agency, in violation of RPC 3.4(c) and/or RPC 8.4(d).

Count 7 – filing similar claims multiple times and/or in multiple jurisdictions and/or by making multiple requests for similar relief and/or failing to appear for deposition and/or otherwise prolonging the proceedings, in violation of RPC 3.2 and/or RPC 4.4 and/or RPC 8.4(d).

Count 8 – filing an action and/or appeal seeking to relitigate the dissolution decree property distribution and using the partition action as the basis for yet another lis pendens filing

clouding title to the real property ordered sold under the decree, in violation of RPC 3.1 and/or RPC 3.2 and/or RPC 3.4(c) and/or RPC 8.4(j).

Count 9 – repeatedly violating court orders or rules and/or repeatedly filing pleadings, motions, appeals or other papers without merit and/or filing similar claims in multiple forums and/or otherwise delaying enforcement of his parents' dissolution decree and/or forcing his father to defend in multiple courts on multiple grounds, in violation of RPC 8.4(n).

Based on the pleadings in the case, the testimony and exhibits at the hearing, the Hearing Officer makes the following:

FINDINGS OF FACT

1. Respondent was admitted to the practice of law in the State of Washington on June 13, 2002, and in Oregon on May 18, 1998.

FACTS REGARDING THE DISSOLUTION

2. In January 2001, Fredric's mother, Viveca Sanai (Viveca), filed for dissolution from her husband of forty years, Sassan, under Snohomish County Superior Court Cause No. 01-3-00054-5. The couple had five surviving adult children, two sons, Fredric and Cyrus Sanai (Cyrus), both lawyers, and three daughters, Ingrid Sanai Buron (Ingrid), Daria Sanai (Daria) and Astrid Sanai (Astrid).

3. Robert Prince (Prince) represented Viveca. Kenneth Brewe (Brewe) represented Sassan until September 13, 2001, when Sullivan of MMPSM replaced him.

4. Following a November 2001 trial before the Honorable Joseph A. Thibodeau, on April 15, 2002, Judge Thibodeau entered Findings of Fact and Conclusions of Law (FFCL) and a Decree of Dissolution. He named the couple's accountant, Philip Maxeiner as "special master"

and required him "to list the family home and the vacant lot located on Talbot Road immediately." Each party would receive half the proceeds from the real estate sales. EXs 5, 6.

5. On April 26, 2002, Viveca filed a pro se Notice of Appeal under Court of Appeals Cause No. 503740-I challenging the FFCL and the Decree. She also filed a "Notice of Supersedeas Without Bond." EX 3 (Docket) at sub-number 254.

6. On May 15, 2002, John and Linda Neimi signed a full price Purchase and Sale Agreement for the vacant lot. Viveca's actions prevented a planned June 2002 closing. EXs 16, 41 (Neimi Declarations).

7. After Viveca's attempted supersedeas without bond, Judge Thibodeau issued an order requiring \$50,000 and \$72,000 bonds to stay the sale of the vacant lot and family home. EX 10.

8. Viveca responded with supersedeas bonds of a purported private surety. Sassan objected.

9. Fredric obtained his license to practice law in Washington so that he could represent his mother. EX 175 at 2, fn. 1. At a June 25, 2002 hearing, when Fredric first appeared for her, Judge Thibodeau required cash or commercial surety bonds and ordered the stay lifted on the vacant lot sale unless Viveca posted the required bond by July 2, 2002. EX 20.

10. Viveca did not post the required bond. Instead, on July 2, 2002, Fredric filed a "Lis Pendens Notice" against the lot in the dissolution action. EX 22. It was recorded the same date under No. 200207020603. EX 2 (Title Report) at 95.

11. In addition, on June 28, 2002, Fredric wrote to the Neimis as Viveca's "co-counsel" claiming Maxeiner "has no legal authority to sell the property" and promising that "[a]ny attempt

to drag my client [Viveca] into litigation will receive an appropriate response.” EX 21. On July 5, 2002, Fredric filed a Motion for Reconsideration of the June 25, 2002 Order, which continued the stay on the lot sale. EX 23, EX 20 at 2.

12. Fredric also signed a “First Amended Lis Pendens” recorded August 30, 2002 under No. 200208300704 against the lot, and another recorded August 7, 2002 under No. 200208070472 against the house. EX 2 at 99, 102.

13. Fredric’s lis pendens filings against the lot kept the Neimis from obtaining title insurance and blocked their anticipated closing on the lot. Since making their \$325,000 full price offer for the vacant lot in May 2002, their \$15,000 earnest money remained with the realtor. The Neimis had “cashed in sufficient investments to pay the purchase price in full without the need to secure financing.” They remained ready to close the sale at any time. However, they wanted to build on the lot. To secure financing for the construction, they needed title insurance. The title insurance company would not issue a policy “so long as the lis pendens is in existence.” EXs 41, 42 (Neimi and Purfeerst Declarations).

14. On July 30, 2002, Fredric filed a motion for an order to show cause why a new trial should not be granted based on “new evidence” that Sassan had wiretapped conversations from the family home.

15. On August 19, 2002, Fredric filed a Motion for Permission to File Audiotape, Protective Order, and Order Sealing Audiotapes. He claimed that Viveca had recently discovered tape recordings “regarding Respondent’s medical practice and patients.” EX 25 at 2. That same day, he filed a Motion for Protective Order and Order to Seal Court File and Motion for Sanctions Under CR 11 And/Or Terms. EX 26. He sought sanctions against Brewe for his

August 2001 submissions to the court in opposition to Viveca's then pending request to continue the trial date due to her health. Fredric noted the sanctions motion for September 20, 2002. EX 28.

16. On September 11, 2002, Fredric responded to Sullivan's motion to disqualify him by attacking Sullivan. EX 29.

17. Brewe responded to Fredric's motion for sanctions against him citing the lack of legal and factual support for the motion. Brewe noted that the motion was not filed promptly after the allegedly offending conduct as required and that Fredric failed to confirm the September 20, 2002 motion hearing. Brewe moved for sanctions against Fredric. EXs 30, 32, 33.

18. Sassan moved to strike the lis pendens filed by Fredric. On September 20, 2002, Fredric opposed that motion and sought sanctions.

19. At a September 27, 2002 hearing, Judge Thibodeau called Fredric's lis pendens filing "a misuse of that statutory scheme, because you have an adequate remedy at law." EX 37 (transcript). Judge Thibodeau's order on this issue required Viveca to lift the lis pendens unless the Court of Appeals issued a stay. It prohibited Viveca or Fredric from filing another lis pendens "in this lawsuit related to the undeveloped lot." It also prohibited Viveca or Fredric from "taking any further action to delay or obstruct the sale of the vacant lot." EX 35.

20. Judge Thibodeau also disqualified Fredric immediately from representing Viveca, EX 34 (Order), citing, among other things, "this record" and that "[h]e's actually bringing more heat to this case than anything else." EX 37 (transcript).

21. Another September 27, 2002 order denied Fredric's motion for a new trial; denied his motion for a protective order, denied his motion to disqualify Sullivan and denied Fredric's

motion for reconsideration regarding bonds, except it allowed Viveca to remain in the family home without bond, pending appeal. EX 36. The Court awarded Sassan \$1,000 in terms based on Fredric's protective order motion, which Judge Thibodeau described in his oral ruling as "frivolous." EX 37.

22. On October 11, 2002, Judge Thibodeau found Fredric's motion for sanctions against Brewe "frivolous" and awarded \$500 in terms under Rule 11 of the Rules of Civil Procedure (CR). EX 38.

23. I find the motion against Brewe was frivolous for the reasons stated in Brewe's response to the motion and that Fredric brought the motion to embarrass and burden Brewe and Sassan.

24. Viveca filed a "pro se" Notice of Appeal as to the October 11, 2002 and September 27, 2002 orders, EX 39, which the Court of Appeals eventually assigned Cause Nos. 51303-6-I and No. 51707-4-I. See EX 94.

25. As outlined in Sullivan's November 6, 2002 Motion asking Judge Thibodeau to execute a release of the lis pendens as soon as the Court of Appeals ruled, EX 40, Fredric filed many motions in the Court of Appeals seeking to block the vacant lot sale. None succeeded.

26. Commissioner Ellis denied Fredric's June 26, 2002 motion, EX 67, on June 28, 2002. EX 68 ("Viveca may not unilaterally determine that no bond is necessary and then proceed as if no bond is required...") Ellis found Fredric presented "no conceivable basis" for his requested terms of \$20,000 and no demonstrated basis for emergency relief. On July 1, 2002, a panel of judges denied Fredric's motion of that date to modify Commissioner Ellis's ruling. EXs 69, 70.

27. Commissioner Verellen denied Fredric's October 3, 2002 motion the next day, noting that the motion failed to demonstrate that the injury from sale of the lot outweighed the injury from the loss of the sale to the currently interested purchaser. EXs 73, 74.

28. Commissioner Verellen denied Fredric's October 7, 2002 "reapplication" motion that same day. Again, he pointed out that "the key to a stay is a balancing of the relative harms" and the "voluminous materials" failed to establish that the vacant lot was unique, that the price was below fair market value or that Viveca would be harmed if the proceeds were deposited with the special master. EXs 75, 76 at 2.

29. Commissioner Craighead denied Fredric's October 16, 2002 motion and October 21, 2002 "supplement" on November 4, 2002. Citing the Rules on Appeal (RAP), she found that "the motions are not properly before me" and that "[c]ounsel misunderstands the appellate process." EXs 77, 80, 84 at 1, 2. Nevertheless, Fredric filed an additional motion on November 8, 2002, EX 85, which was denied by a panel of judges on February 11, 2003. EX 95.

30. Fredric also challenged his disqualification by motions in the Court of Appeals. EXs 73, 85, 90. None succeeded. EXs 84, 85, 96. He continued to seek protective orders or sanctions in connection with his father's alleged improper disclosure of health care information by motions in the Court of Appeals. EXs 71, 79, 85, 92. None succeeded. EXs 71, 84, 95, 96. He repeated motions to seal the file in the Supreme Court, EX 119 and See EX 112 (Docket at July 1, 2003). None succeeded. EXs 122, 123.

31. On December 20, 2002, citing the "continuing appeals of every ruling of this court...greatly prolonging the matter and costing substantial attorney's fees," Judge Thibodeau sanctioned Viveca \$2,500 to be paid to Sassan from Viveca's share of the net proceeds from the

sale of the vacant lot. The December 20, 2002 order also provided that the Court would issue a release of the lis pendens once the Court of Appeals ruled. EX 44. Fredric as "Appellate Attorney for Petitioner Viveca Sanai" filed a Notice of Appeal from that ruling. EX 45.

32. Following the February 11, 2003 Court of Appeals order that denied Fredric's requested stay of the trial court order requiring the lis pendens release, on February 13, 2003, Judge Thibodeau released Fredric's July 2, 2002 lis pendens recorded under No. 200207020603.

33. As Sullivan traveled the short distance from the Snohomish County Superior Court to the Auditor's Office, he passed Viveca. The release he had just obtained was recorded at 4:18 p.m. on February 13, 2003. He asked the auditor's office staff to check for recent filings against the vacant lot and discovered a new lis pendens signed by Cyrus citing the second federal wiretap case discussed below and recorded at 4:10 p.m. that day. EX 2 at 107, 138. The second federal wiretap case (02-02560) was filed by Cyrus and Fredric as the only plaintiffs on December 24, 2002, EX 274, after Fredric had lost several motions in the Court of Appeals attempting to stay the lot sale.

34. On January 27, 2003, Fredric sought discretionary review of the lis pendens issue. EX 91. On March 11, 2003, a Court of Appeals panel determined the issue was not appealable and did not meet the requirements for discretionary review under the RAP. EX 96.

35. Meanwhile, at the trial court, on March 10, 2003, Judge Thibodeau ordered Viveca to vacate the family home by May 10, 2003, or face sanctions of \$250 per day. He awarded Sassan \$1,000 in terms against Viveca to be deducted from her share of the net proceeds from the sale of the lot or home. EX 48.

36. The sanction for Viveca's holdover in the family home remains to be determined.

Prince estimated the amount at \$50,000. EX 62 at 21 (Prince).

37. On April 14, 2003, Fredric sought direct review of the March 10, 2003 order in the Washington Supreme Court. EX 113. On May 5, 2003, Fredric "refiled" the motion. EX 114 at 2.

38. On May 7, 2003, Supreme Court Commissioner Crooks denied relief referencing not only that "the children have taken up arms against the father" in a "continuous stream of litigation," but also that Fredric provided only a "sparse record." The May 7, 2003 Ruling asked the parties to brief whether Fredric could continue to represent Viveca given that Judge Thibodeau's disqualification order had never been stayed. EX 115A. Fredric's motion seeking clarification was denied. EX 117.

39. On June 10, 2003, Commissioner Crooks denied another motion for supersedeas and motion to modify. EXs 120, 121, 122. He also ruled that because the trial court disqualification order was never stayed, Fredric lacked authority to act for Viveca and accordingly, he dismissed the pending motions. Fredric moved to modify that ruling. See EX 112 (docket at July 10, 2003). On September 5, 2003, Department II of the Supreme Court unanimously denied all pending motions and sanctioned Fredric and Viveca \$1,000.

40. On December 22, 2003, the Court of Appeals decided the main appeal, affirming Judge Thibodeau except that firearms awarded to a third party were awarded to Sassan as bailee for a third party. EX 104. Citing the "one and one half years of posttrial litigation and motions," which the Court characterized as "inappropriate, untimely, and unduly repetitive" and errors in Viveca's opening brief (signed by Fredric, EX 97), the Court imposed \$10,000 in sanctions against Viveca for her "extreme intransigence" and for "abusing the appellate process."

41. The Washington Supreme Court declined discretionary review of the appeal and the United States Supreme Court denied certiorari. EXs 104 at 9, 107.

42. I find the motions for protective order or to seal the file allegedly brought to protect the confidentiality of Viveca's health care information were frivolous for the same reasons that Fredric's motion against Brewe was frivolous. Although Fredric acted as Viveca's counsel until disqualified, he never represented the private surety. While his avowed purpose in repeatedly bringing such motions was to protect the confidentiality of Viveca's and the private surety's health care information, Fredric repeatedly put the information in the public record to do so. Fredric brought the protective order and like motions regarding Viveca's and the private surety's health care information to embarrass and burden Sassan.

43. Fredric's often repeated motions for supersedeas or related relief were brought to delay implementation of the decree and to burden Sassan. In addition, he did not articulate an appropriate reason for claiming lis pendens relief under RCW 4.28.320 for the reasons stated by Judge Thibodeau, the Court of Appeals and Judge Zilly. I find they were frivolous. He argued that Viveca should be allowed to use a private surety.

44. Fredric's post judgment motion practice in the Snohomish County Superior Court, the Court of Appeals and the Washington State Supreme Court violated practice norms.

45. In all instances, Fredric acted intentionally. He caused actual serious harm to his father, who was forced to defend the plethora of motions. He burdened the courts at every level with his frivolous filings. He delayed resolution of his parents' dissolution. In deciding the main appeal, the Court of Appeals sanctioned Viveca \$10,000 for "extreme intransigence" and for Fredric's "inappropriate, untimely and unduly repetitive" motions.

46. In the spring of 2003, following the Court of Appeals refusal to supersede or stay the vacant lot sale, Fredric, as Viveca's lawyer, filed a Complaint in King County against Sassan and his professional services corporation, Internal Medicine and Cardiology, Inc. (IMC) seeking to obtain the vacant lot and house for Viveca (the partition action). EX 145.

47. Fredric used the partition action as the basis for additional lis pendens filings including an Amended Notice of Lis Pendens signed by Fredric on July 1, 2003 and recorded on July 7, 2003 under No. 200307070619. EX 2 at 166.

48. While the Neimis had abandoned the lot purchase in April 2003, EX 120 at 32, a new deal for sale of the vacant lot had been set to close on or about July 18, 2003.

49. On August 11, 2003, Judge Thibodeau released the lis pendens, held Viveca in contempt of court, and ordered her to pay \$5,000 for obstructing the lot sale by filing the lis pendens signed by Fredric and recorded under No. 200307070619. EX 50. A sale on the vacant lot was recorded the next day. EX 2 at 46.

50. Viveca appealed the August 11, 2003 contempt finding and lost. The Court of Appeals rejected her argument that only the court in which the underlying action is filed may release the lis pendens. It noted that RCW 4.28.320 does not so state, and Viveca cited no authority in support of her position. Also, the partition action was filed in the wrong county [by Fredric] and thus could not affect title to property in Snohomish County. Finally, the Court cited Judge Thibodeau's order prohibiting Viveca or her counsel from taking "any further action" to delay the vacant lot sale, and the superior court's inherent power to enforce its own orders. EX 126 (Sanai v. Sanai, 127 Wash. App. 1013 (Div. I, May 2, 2005)(unpublished opinion)).

51. On May 26, 2005, Judge Thibodeau hoped that a hearing that date would resolve

remaining dissolution issues given that a sale was pending on the family home. Instead, he recused himself from the case. EX 62 at 21, 22. He believed that Fredric, Viveca and Cyrus had acted "in concert" and "in bad faith." EX 62 at 16, 23.

52. In June 2005, the Auditor's Office recorded the sale of the family home. EX 2 at 16.

53. Prince withdrew from representing Viveca in the trial court in April 2006. He had never represented her on appeal. EX 83. Following a period when Viveca represented herself and a court order forbid Fredric or Cyrus from representing her, EX 64, Michael Bugni appeared for Viveca.

54. A hearing to resolve remaining dissolution issues and proceeds distribution is set for August 2007. Viveca has been sanctioned over \$250,000 in the federal wiretap litigation described below. At least one of the parties entitled to sanctions in the federal wiretap case has requested and received an order that the party must receive notice and be allowed to participate in any proceedings to distribute remaining dissolution assets. EX 64.

55. I find that Fredric acted intentionally in signing and/or filing lis pendens and that he caused serious actual harm in that he not only delayed resolution of his parents' dissolution, but he also thwarted the Neimis efforts to buy the vacant lot after they made a full price offer and liquidated assets to satisfy their obligations at the anticipated closing. He delayed the closing for the subsequent purchaser in the summer of 2003. He brought the lis pendens with no substantial purpose other than to delay the lot sale or burden his father or the prospective purchasers of property ordered sold under his parents' dissolution decree. He violated practice norms.

56. On September 27, 2002, Judge Thibodeau prohibited Viveca or Fredric from filing

another lis pendens or taking any further action to delay or obstruct the sale of the vacant lot. Fredric's subsequent lis pendens filings against the vacant lot on May 20, 2003 and July 7, 2003 knowingly and willfully disobeyed Judge Thibodeau's order. Judge Thibodeau held Viveca in contempt of court. Fredric assisted in the contemptuous conduct by filing the partition action that served as the basis for further lis pendens and by signing and/or filing the lis pendens notices. He also assisted in contemptuous conduct by joining Cyrus in filing the second federal wiretap case, which Cyrus used as the bases for still more lis pendens filings.

FACTS REGARDING LAWSUIT AGAINST JUDICIAL OFFICERS

57. Four days after Justice Alexander's September 5, 2003 Order dismissing Fredric's Supreme Court motions, Fredric and Viveca filed suit under 42 U.S.C. §1983. See EX 130 (Docket for Case No. C03-2781C in the United States District Court for the Western District of Washington at Seattle). EX 130 (Docket).

58. Fredric's First Amended Complaint, filed September 16, 2003, named as Defendants Commissioner Crooks, Snohomish County Superior Court Judge Thibodeau, and Court of Appeals Judges Applewick, Baker and Ellington. He alleged civil rights violations based on Judge Thibodeau's decision disqualifying Fredric and the other Defendants' denial of requests for relief from that decision. He sought "an injunction to compel the Defendants to allow Viveca to be represented by Fredric Sanai...." EX 131 at 11.

59. Also, on September 16, 2003, Fredric and Viveca filed an Ex Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction (TRO) again seeking to stay "all proceedings in the dissolution action" and to effectively overturn the rulings disqualifying Fredric from representing his mother. As he admitted in the "Facts" section of that Application,

“[t]his action arises from the post-final judgment proceedings in a divorce case.” EX 132 at 3.

60. In his attached Declaration, EX 132 at 25, Fredric identifies himself as not only a Plaintiff, but also as “counsel to Viveca Sanai.”

61. The Washington State Attorney General’s Office appeared for the jurists and moved to dismiss the complaint and the original and subsequent TRO motions.

62. On September 24, 2003, the Honorable Robert S. Lasnik denied the first TRO motion, noting that “Plaintiffs’ chance of prevailing on the merits is minimal.” EX 133 at 5.

63. On October 2, 2003, Fredric moved for summary judgment and again included a plea for injunctive relief. EX 134. Defendants’ Opposition included a cross motion to dismiss. EX 135.

64. Before the Court decided those motions, on December 1, 2003, Fredric filed yet another Ex Parte Application of Fredric Sanai and Viveca Sanai for Temporary Restraining Order and Motion for Preliminary Injunction admitting “[t]his motion is a re-application for a temporary restraining order and motion for restraining order [sic] which was made to this Court and denied by Judge Lasnik on September 24, 2003.” EX 136 at 2.

65. On December 12, 2003, Chief United States District Judge John C. Coughenor dismissed the case for lack of subject matter jurisdiction. He also dismissed the pending injunction request(s) and concluded as follows:

In sum, Plaintiffs’ attempt to obtain review of unfavorable decisions of the Washington state courts by wrapping their state law-based challenges in the fabric of federal constitutional claims must fail under the Rooker-Feldman doctrine. The fact that Plaintiffs did not present, although they could have, their current constitutional arguments to the state court judges does not alter the application of Rooker-Feldman’s jurisdictional bar.

EX 137 at 11 (footnote omitted).

66. On December 15, 2003, Fredric moved for reconsideration. EX 139. On January 8, 2004, Fredric signed a Notice of Appeal as “Counsel for Viveca Sanai & pro se.” EX 140.

67. Despite the earlier rulings denying his requests for a TRO and despite the court’s December 12, 2003 order dismissing the case, on January 16, 2004, Fredric again requested a TRO pending appeal. EX 141.

68. “Despite the continuing colorfulness of Plaintiffs’ arguments,” EX 142 at 1 (January 23, 2004 Order), Judge Coughenor denied Fredric’s Motion for Reconsideration and his fourth TRO bid. He concluded: “Here, Plaintiffs seek nothing more than review of the disqualification orders issued by the state court judges. Clearly, this Court is not a proper forum for such de facto appellate challenge.” *Id.* at 11.

69. The Ninth Circuit assigned the case No. 04-35041. On August 17, 2005, a Ninth Circuit panel issued a Memorandum Opinion deciding several pending Sanai matters.

70. It held that the district court properly applied the Rooker-Feldman doctrine to dismiss Fredric’s and Viveca’s challenge to the state court’s disqualification of Frederic Sanai as counsel for Viveca Sanai. Sanai v. Sanai, 141 Fed.Appx. 677 (9th Cir. August 17, 2005) (unpublished opinion), cert. denied 126 S.Ct. 2022, 74 USLW 3475 (May 15, 2006). EX 143.

71. The Rooker-Feldman doctrine bars federal courts from acting as de facto appeals courts from state court decisions. “If a federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state court, and seeks relief from a state court judgment based on that decision, Rooker-Feldman bars subject matter jurisdiction in federal district court.” Noel v. Hall, 341 F.3d 1149, 1164 (9th Cir. 2003).

72. I find that the suit against the judges was frivolously asserted. Fredric identified himself as not only a plaintiff, but also as Viveca's lawyer. I find that he brought the action to embarrass and burden the judicial officers sued. His TRO motions were without merit and designed to delay the dissolution proceedings. Finally, the litigation was outside practice norms.

73. I find that Fredric acted intentionally and that he caused actual serious harm in that his repeated TRO and other filings burdened the courts and the defendant judicial officers with meritless claims.

FACTS REGARDING STATE AND FEDERAL WIRETAP LAWSUITS

74. California Litigation. On March 16, 2001, while the dissolution action remained pending, Fredric, Cyrus, Viveca, Ingrid and Daria sued Sassan in Los Angeles County Superior Court under Cause No. BC246941 for over \$1,000,000 alleging, among other things, that Sassan had invaded their privacy by wiretapping their conversations from the family home. The Complaint identified Sassan as a Washington State resident at all relevant times. EX 167.

75. On July 12, 2001, the trial court granted Sassan's motion to quash the summons against him based on the California court's lack of personal jurisdiction over him. EX 168 (minute entry).

76. Fredric and other Plaintiffs appealed that decision and lost. EX 169 (Sanai v. Sanai, 2003 W.L. 733994 (Cal. App. 2 Dist., March 4, 2003) (unpublished opinion)).

77. Washington State Court. On August 20, 2002, while the California case was on appeal, Fredric, Cyrus, Viveca, Daria and Ingrid sued Sassan, IMC and IMC employee Mary McCullough in King County Superior Court under Cause No. 02-2-23981-1, alleging wiretapping. EX 171 (Complaint).

78. On October 4, 2002, after a hearing, the Honorable Palmer Robinson issued an Order on Show Cause allowing Plaintiffs to obtain a Writ of Attachment against \$50,000 of Sassan's interest in the net proceeds from the vacant lot or family home sale, provided that Plaintiffs first obtain a commercial surety bond for \$200,000. EX 175. Plaintiffs never posted a bond or obtained a Writ of Attachment.

79. As part of the Order on Show Cause, the Court noted that while Plaintiffs claimed over \$6 million in damages and sought a pre-judgment writ of attachment for \$12 million they sought to have the writ conditioned only on "their giving an unsecured 'personal undertaking' in the amount of \$3,000." EX 175 at 2.

80. After hearing testimony from Fredric, Viveca and Cyrus, Judge Robinson found "no evidence presented that the tapes had ever been played for or listened to by any third person" and "no evidence that any telephone calls to, from, or within Sassan's place of business had been intercepted or tape recorded." The asserted basis for venue in King County had been that improper wiretaps had been conducted at IMC, which is located about one-quarter mile within King County. The wiretapping at IMC allegation had not appeared in the California complaint. EX 167.

81. On October 18, 2002, Plaintiffs filed a First Amended Complaint. It added William Sullivan (Sullivan) and Marsh, Mundorf, Pratt, Sullivan and McKenzie (MMPSM) as defendants. EX 176. Specifically, the Third Cause of Action alleged all defendants had violated Ch. 70.02 RCW by disclosing confidential health care information about Viveca. This repeated allegations Judge Thibodeau had rejected only days earlier in the dissolution case. In fact, the Snohomish County Superior Court's October 11, 2002 order had sanctioned Fredric and Viveca

\$500 for bringing such "frivolous" allegations against Sassan's prior lawyer.

82. The amended complaint also added defamation claims against Sassan, Sullivan and MMPSM based on grievances Sullivan and Sassan had filed against Fredric with the Association.

83. On November 21, 2002, the Association wrote to Fredric advising him that Rule 2.12(b) of the rules for Enforcement of Lawyer Conduct (ELC) [formerly Rule 12.11(b) of the Rules for Lawyer Discipline (RLD)] provides that communications to the Association are "absolutely privileged and no lawsuit predicated thereon may be instituted against any grievant, witness, or other person providing information." EX 182 (Ende letter).

84. At Defendants' request, the King County Superior Court transferred the case to Snohomish County Superior Court, EX 177, where it received Cause No. 03-2-06858-4.

85. On May 8, 2003, Plaintiffs filed a Second Amended Complaint under the Snohomish County case number. EX 183.

86. By this time, Plaintiffs had filed wiretapping allegations against Sassan and defamation allegations against Sassan and Sullivan in federal court, too. The amended complaint in state court retained the factual predicate for the wiretapping and defamation claims, but noted: "Plaintiffs are pursuing their causes of action for illegal wiretapping in Federal court." EX 183 at paragraph 22. See also EX 183 at paragraph 30 (similar notation regarding defamation claims). That left only Viveca's claims. However, paragraph 49 of the amended complaint alleged that Viveca had assigned a portion of her invasion of privacy claim for disclosure of allegedly confidential health care information to Fredric and the other Plaintiffs.

87. On May 9, 2003, Snohomish County Commissioner Bedle granted Sullivan \$3,000 in terms against Viveca and Fredric under CR 41 and 15. EX 184. After United States District

Court Judge Zilly told Plaintiffs that they must dismiss the state court wiretap claims to lift the stay he had imposed in the federal wiretap litigation described below, Plaintiffs initially tried to amend their state court complaint to delete certain claims.

88. On August 5, 2003, the parties filed a Stipulation and Agreed Order of Dismissal. EX 186. Fredric and others filed a Notice of Appeal citing both the terms imposed and the agreed dismissal order. EX 187. The Court of Appeals assigned case number 764123. EX 188 (Docket).

89. On October 18, 2004, the Court of Appeals held that fees should not have been awarded under CR 15 or CR 41. However, the lower court had not considered whether an award of fees might be proper under CR 11. The case was reversed and remanded to allow Defendants to seek sanctions under CR 11. EX 189 (Sanai et al v. Sanai et al, 123 Wash. App. 1046, 2004 WL 2335798 (Div. I 2004) (unpublished opinion), rev. den., 154 Wn. 2d 1021 (July 12, 2005). Plaintiffs' petition for review in the Supreme Court had received Case No. 764123. EX 190 (Docket). Sullivan concluded it "didn't make sense" for Sassan to incur further attorney's fees to pursue CR 11 sanctions on remand.

90. First Federal Wiretap Case (02-02165). On October 18, 2002, the same date they filed a First Amended Complaint in the King County wiretap action and while the California wiretap appeal remained pending, Fredric, Cyrus, Viveca, Ingrid and Daria sued Sassan and others in federal court under United States District Court for the Western District of Washington at Seattle Cause No. 02-02165.

91. Among other things, they alleged illegal wiretapping by Sassan. Plaintiffs sought damages exceeding \$16,000,000. Fredric represented Ingrid from at least May 15, 2003, EX 206

at 2, until disqualified. The case was assigned to the Honorable Thomas S. Zilly.

92. Plaintiffs immediately sought injunctive relief to “freeze assets.” See, e.g., EX 191 (Docket in 02165 at 11/22/02). Defendants requested that the federal court abstain from exercising jurisdiction or stay the federal case until the parallel state court litigation concluded. EX 196 (Defendants’ Motion Requesting This Court’s Abstention From Exercising Jurisdiction and for a Stay of These Proceedings).

93. Second Federal Wiretap Case (02-02560). Before the Court could rule on that motion, on December 24, 2002, Fredric and Cyrus, as the only Plaintiffs, filed another complaint under United States District Court for the Western District of Washington at Seattle Cause No. 02-02560. EX 273 (Docket), EX 274 (Complaint).

94. The case was assigned to the Honorable Robert S. Lasnik, who reassigned it to Judge Zilly because it was related to 02-02165. EX 273 (Docket at sub-number 10).

95. Consolidated Federal Wiretap Case (02-02165). Judge Zilly consolidated the cases and ordered that all motions or other documents must be filed under 02-02165. EX 273 (Docket at 15, 60 (Minute Orders)). He rejected the request that the cases be consolidated under the higher cause number [and thus assigned to Judge Lasnik]. EX 201.

96. Judge Zilly denied Plaintiffs any injunctive relief. EX 198 (December 17, 2002 Transcript). He explained:

The parties for whatever reason cannot abide by the rulings of the eminently qualified trial judge in Snohomish County, and this court is not at this point going to interfere by entering a preliminary injunction that would in effect have the force and effect of disrupting and otherwise interfering with the rulings of the trial judge in Snohomish County.

Id. at p. 38.

97. As requested by Defendants, Judge Zilly issued a stay. EX 197 (Minute Order). On January 22, 2003, Judge Zilly granted the motion to abstain or stay as to the illegal wiretapping and emotional distress claims given parallel state court litigation. EX 199 (Minute Order).

98. After Judge Zilly denied Plaintiffs' attempts to enjoin the sale of the vacant lot in the first filed federal wiretap case (02-02165) as described above, then Cyrus used the second filed federal wiretap case (02-02560) as the basis for lis pendens notices against the lot filed February 13, 2003 under Auditor's Number 200302130755, filed March 7, 2003 under Auditor's Number 200303070238 ("Amended Lis Pendens") and April 21, 2003 under Auditor's Number 200304210011 ("Second Amended Lis Pendens"). EX 2 (Title Report) at 138, 142, 147. Cyrus signed and filed another lis pendens on March 7, 2003 under Auditor's File No. 200303070237 against the house. It also cited the 02-02560 case filed by Fredric and Cyrus.

99. After Sassan discovered the February 13, 2003 filing, he moved for its release. EX 200. On April 18, 2003, Judge Zilly ordered the release of the February 13, 2003 lis pendens filed under Auditor's No. 200302130755. EX 204. Three days later Cyrus filed another lis pendens.

100. At a hearing on May 15, 2003, after argument on the pending state and federal wiretap claims, the parties stipulated on the record that Plaintiffs would dismiss the Snohomish County wiretap case and file a Third Amended Consolidated Complaint by June 6, 2003 to consolidate not only the two federal cases, but also any claims remaining under the state court wiretap case. EX 206 (May 15, 2003 Transcript at 27 et. seq.).

101. In addition, Sassan asked Judge Zilly to release the additional lis pendens notices filed by Cyrus. Fredric was present at the May 15, 2003 hearing when Judge Zilly announced:

I'm going to grant the order [striking lis pendens]. The statute, [RCW] 4.28.325 permits filing of a notice of lis pendens in a, quote, action affecting title to real property at the time of filing the complaint or any time thereafter, end of quote. I'm paraphrasing.

But basically, the complaint as alleged in the equitable claim is, in my opinion, not an action affecting real property. And I'm just not satisfied that the representations that have been made would support the Court authorizing a lis pendens.

...

Well, I'm ordering each of the plaintiffs in this action who I have jurisdiction over to cease and desist from any further action to delay or obstruct the sale of either of those properties or filing any further lis pendens.

Id. at 43-44.

102. Plaintiffs immediately appealed the lis pendens release order. EX 191 (Docket at 136). On September 22, 2003, the Ninth Circuit Court of Appeals dismissed the appeal for lack of jurisdiction. EX 191 (Docket at sub-number 240).

103. The Court's written Order on Defendant's Motion to Release Three Lis Pendens canceled and released three lis pendens signed by Cyrus, and provided as follows:

Plaintiffs herein, and each of them, are prohibited from filing any new Notice of Lis Pendens affecting the vacant lot owned by Dr. Sassan Sanai and Viveca Sanai, having Assessor's Property Tax Parcel Account No. 27040700104100 and having that legal description attached hereto as Exhibit B.

Each of the plaintiffs herein shall cease and desist from taking any further action whatsoever to delay or obstruct the sale of the aforesaid real property.

EX 207 (May 19, 2003 Order) (emphasis added). Fredric filed a Motion for Clarification, which Judge Zilly denied. EX 209, 210.

104. Just five days after the May 15, 2003 hearing, on May 20, 2003, Fredric recorded a lis pendens under Auditor's File No. 2003005200939 against the vacant lot based on a Notice of Lis Pendens he signed on May 20, 2003 as "Attorney for Viveca Sanai" citing a King County

action allegedly filed April 20, 2003.

105. The King County partition case described below was actually filed May 20, 2003, EX 145, the same date as the lis pendens. EX 2 (Title Report at 156).

106. In further defiance of the Court's May 19, 2003 Order, on July 7, 2003, Fredric recorded another lis pendens against the vacant lot under Auditor's File No. 200307070619 based on an Amended Notice of Lis Pendens signed by Fredric on July 1, 2003, citing King County Superior Court Cause No. 03-2-25718-4SEA, the partition case. EX 2 (Title Report at 166).

107. Sassan moved for contempt and to release the lis pendens filings. The Court deferred the matter and set oral argument for September 26, 2003. EX 191 (Docket at sub-number 228).

108. During that oral argument, Sullivan outlined Plaintiffs' inconsistent positions in different courts and asked for contempt sanctions against Fredric and Viveca for filing the notices of lis pendens after Judge Zilly's May 19, 2003 order. Fredric did not appear. EX 218 (Transcript September 26, 2003).

109. The Court outlined its decision as follows:

This court held a hearing on May 15th. At that time I did enjoin the plaintiffs from filing lis pendens.

The record is clear that on May 29th the plaintiffs—I think it was May 20th, actually—they filed a new King County action. The action was described as an extension of the divorce between the Sanai's.

In connection with that proceeding, they filed an ex parte motion to compel discovery. They argued in the King County action that the partition action was an independent action and not a continuation of the divorce proceedings. They went into Snohomish County and they argued that it was a separate partition action, not a continuation.

They have made a mockery and are making a mockery of the legal system

by making contrary arguments in one court from another, in not getting the relief they seek in one court, going to another court and seeking that relief.

...
..[T]here's a copy of the amended notice of lis pendens. It's signed by Fredric Sanai. He signs it as attorney for Viveca Sanai. It's dated July 1st. It was filed July 7th. That lis pendens was in direct violation of this court's order.

Id. at 26-27.

110. As a result of the lis pendens signed by Fredric, Judge Zilly found Fredric and Viveca in contempt of court. He sanctioned them \$2,500 payable jointly and severally into the registry of court and awarded Sassan \$3,400 in attorney's fees payable jointly and severally. EX 217 ([October 1, 2003] Order on Defendant Dr. Sassan Sanai's Motion for Contempt, Sanctions, and Attorney's Fees) (releasing Auditor's File Nos. 200305200939 and 200307070619).

111. Plaintiffs appealed the contempt order. See EX 191 (Docket at 269). It received Ninth Circuit Court of Appeals Case No. 03-035797. See EX 191 (Docket at 10/08/2003).

112. On April 8, 2005, the Ninth Circuit affirmed.

The court acted within its authority when it entered the contempt order. Appellants' challenge to the contempt order under the Anti-Injunction Act is precluded by the collateral bar rule. Appellants had sufficient notice of the contemplated contempt finding.

Sanai v. Sanai, 141 Fed.Appx. 677, 678 (9th Cir. 2005).

113. On October 3, 2003, Judge Zilly declared a moratorium on new motions given the 14 motions pending at that time. See EX 191 (Docket at sub-number 274).

114. After Plaintiffs filed the June 6, 2003 amended complaint described below, they issued subpoenas to Defendants' financial institutions. Fredric signed the eight subpoenas as "Attorney for Plaintiff Ingrid Sanai Buron." See EX 212 at 16 et. seq. (Defendants' Motion for Protective Order and to Quash Subpoenas).

115. On June 20, 2003, Fredric as his sister's lawyer, issued a subpoena to the Whatcom Educational Credit Union in Bellingham, Washington, seeking "[a]ll account statements in respect of all bank accounts and credit card accounts in the name of Mary Lynn McCullough from 1/1/90 and onwards." Id. at 31.

116. In the motion papers, William Gibbs, as McCullough's counsel, included his declaration explaining that he had not received notice of the subpoena until after the credit union had been served and contacted his client, who, in turn, contacted him. Id. at 11.

117. Under Rule 45(b)(1) of the Federal Rules of Civil Procedure (FRCP) "[p]rior notice of any commanded production of documents... shall be served on each party in the manner prescribed by Rule 5(b)." Fredric did not provide prior notice as required. Judge Zilly quashed the Whatcom County subpoena. EX 213.

118. Later, after various discovery matters had been referred to a magistrate for resolution, United States Magistrate Judge Mary Alice Theiler granted the protective order relief sought by Defendants as to the other financial records that Fredric had subpoenaed and ordered him to withdraw the subpoenas. Further, she ordered Fredric to provide Defendants any documents produced and ordered Plaintiffs not to retain copies. EX 220.

119. She described the discovery sought by Fredric's subpoenas for McCullough's and Sassan's financial information as "overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence." EX 220 ([October 17, 2003] Order Granting Defendants' Motion for Protective Order Regarding Financial Discovery at 2, 3). She described the subpoenas for McCullough's financial records as "calculated to result in annoyance, undue burden and expense, and to invade [McCullough's] privacy."

120. In addition, the October 17, 2003 Order provided: "Plaintiffs are hereby ORDERED not to issue, or cause to be issued, any further or additional subpoenas for financial records or documents of the type described herein related to any party without prior approval of the Court." Id. at 4.

121. Instead of complying with the order, Plaintiffs used the documents produced under Fredric's subpoenas in the Court of Appeals and state court litigation. See EX 222 at 6. In fact, Fredric wrote: "Once Plaintiffs received the discovery, Plaintiffs were free to use it. Magistrate Judge Thieler's [sic] order to return the discovery was too late. The cat is out of the bag." EX 227 at 6 (January 31, 2004 Response to Motion for Dismissal signed by Fredric as counsel for Ingrid and pro se).

122. Despite the orders of Judge Zilly and Magistrate Judge Theiler regarding Fredric's improper subpoenas to financial institutions, on October 22, 2004, Fredric as "attorney for Plaintiff Ingrid Sanai Buron" issued a Subpoena Duces Tecum to the Redmond General Insurance Agency seeking documents related to a Replevin Bond issued by the insurer for Sassan including documents regarding the security provided by Sassan to secure the bond and how he paid for it or received credit for any refund and any documents mentioning McCullough. EX 232A.

123. The subpoena commanded the insurer to deliver requested documents to Fredric by October 29, 2004. EX 232A at 1. As noted above, FRCP 45(b)(1) requires such subpoenas to be served on opposing counsel. Once again, Fredric did not provide prior notice as required.

124. When McCullough brought a motion for sanctions against Fredric, Fredric admitted that the Defendants were not served properly with the Redmond General Insurance Agency

subpoena, but blamed his mother. She submitted a declaration stating that she became ill and that while she arranged to serve the insurer, she failed to mail copies to the parties until a number of days later. EX 236.

125. The envelope shows the copy to McCullough's counsel was not mailed until November 3, 2004, several days after the insurer's response was due, (EX 232A at 4) and after the insurer had already complied with the subpoena. EX 234 (Smith Declaration).

126. On January 3, 2005, Judge Zilly granted Defendants' motion for sanctions relating to the Redmond General Insurance Agency subpoena issued by Fredric, and he disqualified Fredric from representing his sister.

Plaintiffs' failure to timely notify the Defendants of the subpoena duces tecum was misconduct. Fredric Sanai was acting as an Officer of the Court. Plaintiffs' attempt to blame their mother is unacceptable. The Court ORDERS that Plaintiffs shall return and/or destroy all documents and things obtained from the Redmond General Insurance Agency, or from any party, as a result of the subpoena. Those documents and things may not be used by Plaintiffs for any purpose. In addition, the Court ORDERS that Fredric Sanai may not participate as counsel in this matter. Plaintiff Ingrid Sanai Buron may no longer be represented by Fredric Sanai, and must obtain new counsel or assume pro se status.

EX 244 (January 3, 2005 Order at 3).

127. On March 10, 2005, Judge Zilly awarded McCullough \$1,740 in attorney's fees against Fredric for issuing the Redmond General Insurance Agency subpoena. EX 247 (March 10, 2005 Minute Order).

128. On July 5, 2006, Ingrid withdrew as a Plaintiff and Defendants agreed to dismiss their counterclaims against her. EX 191 (Docket at 764).

129. On the June 6, 2003 deadline, Plaintiffs had filed their Third Amended Complaint (Consolidated) alleging seventeen causes of action.

130. The first two causes of action alleged wiretapping in violation of federal law and invasion of privacy against Sassan, McCullough and IMC on behalf of Fredric, Viveca, Cyrus, Ingrid and Daria. The third and fourth causes of action alleged illegal wiretapping in violation of California and Oregon law on behalf of Cyrus and Fredric, respectively. Plaintiffs' fifth cause of action alleged negligent infliction of emotional distress based on the alleged wiretapping.

131. The ninth and tenth causes of action were filed by Fredric against Sassan, Sullivan and MMPSM and repeated defamation claims citing Sullivan's and Sassan's complaints to the Association. EX 211 at 17.

132. The seventeenth cause of action alleged ERISA violations. Fredric, Cyrus and Daria claimed to be beneficiaries of the IMC benefit plan. EX 211 at 29.

133. On October 29, 2003, Judge Zilly granted summary judgment dismissing Plaintiffs' ERISA claims. See EX 191 (Docket at sub-number 331).

134. On November 3, 2003, the Court granted summary judgment of dismissal for Sullivan and MMPSM on the ninth and tenth causes of action, Fredric's defamation claims. Judge Zilly found both no genuine issue of material fact and found Sullivan's statements privileged on several grounds, including the "WSBA Communications Privilege." EX 221.

135. The Association had warned Fredric about that privilege in November 2002, EX 182. Nevertheless, Fredric had repeated the defamation claims based on the privileged statements to the Association as part of his Third Amended Complaint in June 2003. EX 211.

136. On November 17, 2003, Plaintiffs filed a Notice of Preliminary Injunction Appeal, which received Ninth Circuit Case No. 03-35932. EX 191 (Docket at 342). The Ninth Circuit dismissed the appeal. EX 290.

137. In January 2004, certain Defendants sought summary judgment dismissing additional claims and moved for sanctions based on Plaintiffs' litigation misconduct. See EX 191 (Docket at 370, 373), EX 222 (Motion), EX 223 (Gibbs Declaration), EX 224 (Keaton Declaration), EX 225 (Shultz Declaration), EX 226 (Sullivan Declaration).

138. On May 20, 2004, Fredric and other Plaintiffs filed a Motion for Leave to file a Fourth Amended Complaint. See EX 191 (Docket at sub-number 464). On July 9, 2004, Judge Zilly denied the motion. EX 229. Ten days later, Fredric and other Plaintiffs filed a new federal action repeating the claims dismissed by Judge Zilly.

139. On January 3, 2005, the Court ordered Plaintiffs to show cause why their Complaint should not be dismissed with prejudice because of their continued misconduct, disregard for orders of the Court, and bad faith litigation tactics. EX 244 (January 3, 2005 Minute Order).

140. By May 2005, a majority of the claims asserted in the Third Amended Complaint had been dismissed, leaving six claims asserted against Sassan, McCullough and IMC. On May 18, 2005, Judge Zilly dismissed more claims when he granted summary judgment motions in favor of IMC and McCullough. EX 248 at 27 (May 18, 2005 Order). In addition, the Court dismissed some claims asserted against Sassan, including defamation based on Sassan's grievance to the Association. One basis for such dismissal was that "any communications by Sassan to the WSBA were privileged." Id. at 27.

141. On July 1, 2005, Judge Zilly dismissed with prejudice any remaining claims under Plaintiffs' Third Amended Complaint for reasons set forth in the Court's order, which included the following:

Plaintiffs' conduct in this litigation has been an indescribable abuse of the legal

process, unlike anything this Judge has experienced in more than 17 years on the bench and 26 years in private practice: outrageous, disrespectful, and in bad faith. Plaintiffs have employed the most abusive and obstructive litigation tactics this Court has ever encountered, all of which are directed at events and persons surrounding the divorce of Sassan and Viveca Sanai, including parties, lawyers, and even judges. Plaintiffs have filed scores of frivolous pleadings, forcing baseless and expensive litigation. The docket in this case approaches 700 filings, a testament to Plaintiffs' dogged pursuit of a divorce long past.

EX 252 (July 1, 2005 Order at 2).

142. The order catalogs Plaintiffs' misconduct, including Fredric's disregard of the Court's order prohibiting further lis pendens filings, forum shopping, and Plaintiffs' discovery abuses. The court held "that Fredric Sanai's failure to properly serve the [Redmond General Insurance Agency] subpoena was willful and in bad faith." Id. at 5.

143. Plaintiffs' discovery abuses included not only the subpoenas discussed above, but also the refusal of Fredric and other Plaintiffs to appear for their depositions and to respond to written discovery. See e.g., EX 223 (Declaration of William E. Gibbs in Support of Defendants' Motion for Dismissal for Plaintiffs' Misconduct). On November 7, 2003, Fredric emailed defense counsel that depositions scheduled for the following week would be "impossible from a scheduling point of view." EX 223 at 61 [EX N to the Declaration]. Also Fredric wrote opposing counsel that he would not turn over the alleged wiretap tapes for testing by Defendants' expert "because of the certainty that Sassan and Mary will record over or delete the contents of the tapes." EX 223 at 64 [EX O to the Declaration].

144. Judge Zilly's order also released a lis pendens filed by Cyrus in May 2005, and it held Fredric, Cyrus and Viveca "liable for excessive costs in this litigation pursuant to 28 U.S.C." Defendants were ordered to submit a motion quantifying their § 1927 attorney's fees.

145. Defendants provided the required documentation as to their attorney's fees. On November 4, 2005, Judge Zilly ordered Fredric, Viveca and Cyrus to pay \$273,437 in attorney's fees to Defendants citing 28 U.S.C. § 1927, which provides as follows:

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

EX 261 (November 4, 2005 Amended Order).

146. On March 21, 2007, Judge Zilly awarded McCullough \$14,041.50 in attorney's fees against Fredric, Cyrus, Viveca and Daria based on their meritless ERISA claims that included McCullough as a defendant. EX 272A.

147. Judge Zilly found Fredric did not have standing to sue on the ERISA claims. Even Viveca lacked standing "because the plans were validly terminated before Sassan and Viveca were separated. ...The positions taken by Plaintiffs with regard to their ERISA claims were inventive, but wholly lacking in merit." EX 272A at 5, 6. Judge Zilly also wrote:

Plaintiffs' purpose in bringing the ERISA claims in this Court was to prolong the state court divorce proceedings in a different forum, and to punish and harass Ms. McCullough for her assistance of Defendant Sassan Sanai. Plaintiffs' brought the ERISA claims in bad faith, without any reasonable basis in law or fact. ...Moreover, the Court finds that Plaintiffs' actions were solely for their own personal benefit.

EX 272A at 6.

148. Only Defendants counterclaims remain before Judge Zilly.

149. When the Ninth Circuit decided the many pending appeals with its August 17, 2005 Memorandum Opinion, it noted: "On remand, the district court is urged to carefully examine its

subject matter jurisdiction in this case.” EX 256 at 2. In a November 1, 2005 Minute Order, Judge Zilly performed the required analysis and decided to retain jurisdiction. “Finally, as a matter of comity, it would be inappropriate to inflict this case on any state court at this late date.” EX 258 at 2.

150. The 2004 Federal Wiretap Case. On July 19, 2004, just ten days after Judge Zilly denied Plaintiffs Motion for Leave to file a Fourth Amended Complaint in the consolidated federal wiretap case, EX 191 (Docket in 02-02165 at sub-number 501), Fredric, Viveca and Cyrus sued Sassan, Sullivan, MMPSM, McCullough, Maxeiner and “Does 1-10” in the United States District Court for the Western District of Washington at Seattle under Case No. 04-01594. The case was assigned to Judge Zilly. EX 282 (Docket).

151. In the complaint’s first two causes of action, Fredric repeated the defamation allegations against Sassan, Sullivan and MMPSM. Plaintiffs third cause of action alleged ERISA claims against Sassan, McCullough, Sullivan, MMPSM and Does 1-2. EX 283 (Complaint), EX 284 (Amended Complaint).

152. On July 27, 2004, the Court issued an Order to Show Cause, requiring Plaintiffs to:

show cause why the Court should not dismiss the claims previously dealt with by the Court in C01-2165Z, impose sanctions against the Plaintiffs for filing a new complaint re-alleging claims previously dismissed in C02-2165Z, and stay the newly asserted claims in this case.

EX 282 (Docket at 3, Minute Entry). Plaintiffs responded.

153. On October 8, 2004, Judge Zilly dismissed with prejudice the first two causes of action for defamation as “substantially identical” to the ninth and tenth causes of action in the Third Amended Complaint in 02-2165Z, which Judge Zilly had dismissed on November 3, 2003.

See EX 221 (Order in 02-2165Z).

154. Finding the third cause of action “nearly identical” to the claim filed in the earlier case, which Judge Zilly had dismissed on summary judgment, and finding “no basis” for the claim, Judge Zilly dismissed the ERISA claim with prejudice. EXs 285, 286 (Minute Order, Order).

155. In imposing sanctions under FRCP 11 of \$5,000 each against Fredric, Viveca and Cyrus, Judge Zilly found:

- Plaintiffs’ first three causes of action are frivolously asserted. They have been dismissed with prejudice by this Court in C02-2165Z.
- Plaintiffs’ discussion of the necessity for bringing these claims is not supported by relevant precedent, nor do plaintiffs cite any authority for their position.
- Plaintiffs conduct before this Court has been abusive and outrageous.
- [P]laintiffs continued conduct before this Court has been burdensome, improper, and disrespectful.

EX 286 (Order at 5-6).

156. The Order provided that the case would be dismissed if Fredric, Viveca and Cyrus failed to pay the sanctions into the court registry within 20 days. It also stayed further proceedings pending the final disposition of 02-2165.

157. Plaintiffs appealed the October 8, 2004 Order to the Ninth Circuit, which assigned Case No. 04-35881. They lost. EX 290 (August 17, 2005 Memorandum opinion. “Rule 11 sanction orders are not generally appealable.” (citations omitted)).

158. Fredric acted intentionally and caused actual serious harm when he knowingly and

willfully disobeyed Judge Zilly's May 15, 2003 order by signing and/or filing additional lis pendens notices against the property ordered sold in the dissolution decree. Judge Zilly held Fredric in contempt of court, and I find his conduct was contemptuous and violated practice norms.

159. Fredric acted intentionally and caused actual serious harm to Sassan, Sullivan and MMPSM by filing and refiling defamation claims against Sassan, Sullivan and MMPSM based on Sassan's and Sullivan's grievances to the Association despite a court rule specifically prohibiting such suits and despite a letter from the Association specifically advising him of the relevant court rule. His actions violated practice norms. Especially in view of what Judge Zilly characterized as the "WSBA communications privilege," the defamation claims based on grievances to the Association were frivolous and brought to embarrass or burden Sassan, Sullivan and MMPSM.

160. Fredric acted intentionally and caused actual or potential serious harm when he issued the Redmond General Insurance Agency subpoena and when he failed to provide notice to the defendants until after the insurer had already provided the subpoenaed documents. His conduct violated FRCP 45 and violated practice norms. Only one year earlier, Magistrate Justice Theiler had ordered Fredric not to issue additional subpoenas for financial records without prior court approval and had described his earlier request for McCullough's information as calculated to invade McCullough's privacy.

161. Fredric acted intentionally and caused actual serious harm by filing similar claims multiple times in state and federal court thus delaying resolution of the claims and burdening the defendants. While serving as Ingrid's lawyer, I find he issued subpoenas to harass and burden

McCullough and Sassan. I further find that he delayed the federal wiretap proceedings by failing to appear for scheduled depositions and otherwise refusing to provide discovery and that repeated requests for similar relief delayed the proceedings, burdened the courts and the defendants, and violated practice norms.

FACTS REGARDING PARTITION ACTION

162. On May 20, 2003, Fredric filed a new state court proceeding in King County Superior Court under Cause No. 03-2-25718-4SEA. He represented Viveca in her suit against Sassan and IMC, styled as a Complaint for (1) Partition of Community Property and Equitable Readjustment [sic] of Interests in Community Property and Quiet Title; (2) Breach of Fiduciary Duty; (3) Restitution and Quiet Title; (4) Dissolution and Appointment of a Receiver of IMC. EX 145. Fredric filed the partition action two weeks after Supreme Court Commissioner Crooks refused to stay post dissolution orders and five days after Judge Zilly ordered the release of lis pendens filed based on the federal wiretap case.

163. Among other things, the prayed for relief included "an order awarding to Viveca all of Sassan's right title and interest in the house and vacant lot and quieting title in favor of Viveca..." EX 145.

164. In an Ex Parte Motion to Permit Deposition Pursuant to CR 30(a) that Fredric signed on July 7, 2003, he admitted that "[t]his partition action is an extension of the divorce between Sassan Sanai and Viveca Sanai." EX 146 2. He had not provided notice to his father's lawyer, Sullivan.

165. King County Court Commissioner Prochnau telephoned Sullivan, who explained that he had not been served or otherwise notified of the deposition request. EX 147 (Minute

Entry), EX 148 (Transcript of July 9, 2003 audiotaped hearing).

166. In the spring of 2003, nearly one year after their initial offer, the Neimis abandoned the vacant lot purchase. EX 120 at 32. Maxeiner relisted the lot and soon had another full price offer. That deal was scheduled to close July 18, 2003, but it did not because of the lis pendens signed and filed by Fredric based on the partition case. EX 150 (Sullivan Declaration at ¶¶39-44).

167. Fredric signed such lis pendens notices on May 20, 2003 (recorded May 20, 2003 under Auditor's No. 200305200939 for the lot) and July 1, 2003 (recorded July 7, 2003 under Auditor's No. 200307070618 for the house and under Auditor's No. 200307070619 as an amended notice for the lot). EX 2 at 156, 162 and 166.

168. Sullivan had moved to strike the lis pendens and for contempt sanctions before both Judge Thibodeau in the dissolution case and before Judge Zilly in the consolidated federal wiretap case. See EX 150 (Sullivan Declaration ¶45).

169. Following a September 12, 2003 hearing, King County Superior Court Judge Robert H. Alsdorf made findings and transferred the case to Snohomish County reserving to that court any determination regarding whether "this King County proceeding is indeed a separate action or is simply an attempt to forum-shop and pursue the same claims in yet another jurisdiction." It also deferred to Snohomish County the sanctions issue. EX 154 at 3.

170. The order continued: "there is no reason in law or equity or judicial economy that justifies the expense of this Court re-litigating issues already decided and apparently also currently being addressed in Snohomish County." Id. at 2-3.

171. The court rejected Fredric's request for a continuance to conduct discovery because

it found no reason to delay a decision to end “what appears on its face to be unduly litigious, repetitive and even harassing litigation when the relevant facts either are, or should have been, fully discovered prior to this date, and the self-serving allegations of chicanery currently asserted in favor of delay appear only to duplicate charges previously made unsuccessfully by plaintiff.” Id. at 4.

172. Given Fredric’s comment at oral argument that if the court transferred the case to Snohomish County he would be “forced” to refile it in King County, the Court, on its own motion enjoined Fredric and Viveca from any such action unless certain conditions could be met. Id. at 4-5.

173. The Snohomish County Superior Court assigned the transferred case No. 03-2-10983-3. In October 2003, Sassan renewed his motions to dismiss and for sanctions. See EX 155 (Docket at 3, 4).

174. On December 16, 2003, Judge Thomas J. Wynne signed an order that dismissed the case and imposed sanctions against Fredric and Viveca.

175. Among other things, Judge Wynne found as follows:

- The pending action merely continued the dissolution proceedings.
- “[T]he filing of this action in King County constituted a blatant attempt to forum shop.”
- Fredric and Viveca made inconsistent statements to various courts with “substantial dissembling.”
- “This court finds this action to be wholly frivolous.”

EX 159 (Order on Defendants’ Motion to Dismiss and Motion for Sanctions).

176. The Order included a judgment for sanctions for reasonable attorney's fees and costs totaling \$13,071.22 entered against Fredric and Viveca jointly and severally.

177. The Court entered judgment against Fredric and Viveca, jointly and severally, for \$2,500 in favor of the Snohomish County Superior Court "to sanction them for their forum shopping and misrepresentation to the courts and to compensate the court for the waste of judicial resources this action has caused." Id. at 6.

178. Fredric filed a Notice of Appeal.

179. The judgment received Snohomish County Superior Cause No. 04-9-01769-0. In June 2005, Fredric and Viveca satisfied the judgments. EXs 160, 161.

180. On January 23, 2006, Fredric and Viveca lost the appeal of the partition case, which the Court of Appeals had assigned No. 53611-7-I.

181. In a per curiam unpublished opinion, the Court upheld the change of venue to Snohomish County, the dismissal of the action, and the award of attorney fees to Sassan. Citing *res judicata*, the court agreed with Sassan that the partition action "raised only claims that were rejected in earlier litigation or were derivative of previous claims and should have been litigated then." EX 165 at 3 (Fredric and Viveca Sanai, Appellants v. Sassan Sanai and IMC, 131 Wash. App. 1014, 2006 WL 158657 (Wn. App. Div. I, 2006) (unpublished opinion).

182. The Court of Appeals rejected the claim that venue was proper in King County. The Court held that the section of the Business Corporation Act Fredric relied upon, RCW 23B.14.300 (judicial dissolution –grounds) is not jurisdictional, and that Fredric had not alleged one of the statutory basis for judicial dissolution of Sassan's professional services corporation. See EX 165 at 1-2 (131 Wash. App. at fn. 3).

183. The Court also concluded that the challenge to the award of sanctions was “without merit.” Noting the trial court’s finding that the partition action was “a blatant attempt to forum shop,” the Court held the trial court properly imposed sanctions under CR 11 and RCW 4.84.185.

184. The Court agreed with Sassan that the appeal was frivolous, brought solely for purposes of delay and demonstrated Viveca’s continued intransigence. EX 165 at 3. “Fees are warranted on both grounds.” Id.

185. I find that Fredric acted intentionally and caused actual serious harm by filing the partition action and by using it as the basis for additional lis pendens filings against the property ordered sold under his parents’ dissolution decree. The partition action was frivolous. I find that it sought to relitigate claims that were or should have been brought in the dissolution case, and that Fredric used the partition case to sign and/or file lis pendens notices in knowing and willful disobedience of Judge Thibodeau’s and Judge Zilly’s orders forbidding any further lis pendens or other action to delay the real estate sales. The resulting delay harmed not only Sassan and the prospective purchasers, but also burdened the courts and resulted in contempt findings and sanctions against Viveca in both state and federal court and against Fredric in federal court.

FACTS REGARDING UNFITNESS TO PRACTICE

186. I find that throughout the proceedings described above, Fredric violated court rules and court orders, and persisted in burdening and delaying his opponents and the courts despite courts finding his pleadings, motions and appeals frivolous and imposing sanctions against him and his client for his litigation tactics. I find that he acted intentionally and caused actual serious harm in filing multiple motions and complaints seeking similar relief, and when he did not receive the requested relief, he refiled the motion or complaint in another court.

187. Fredric tried to relitigate his state court disqualification by filing suit in federal court against the judicial officers who ruled against him. He tried to relitigate the Snohomish County dissolution decree by filing a King County partition action. He filed and refiled the wiretap claims in multiple forums. He filed and refiled the defamation claims despite a court rule and express warning about the "WSBA communications privilege."

188. I find his actions burdened not only his father and the court system, but also third parties such as the Neimis and Mary McCullough. I further find that he ignored service requirements for tactical advantage, employed abusive litigation tactics for more than four years and even after significant sanctions were imposed on him or his client, and frivolously asserted claims without factual or legal support. I find that his pervasive pattern of misconduct demonstrates an inability or unwillingness to comply with the law and demonstrates his unfitness to practice.

189. As to all counts, I find that Fredric acted intentionally.

190. As to all counts, I find that Fredric caused actual serious injury or potentially serious injury.

191. As to all counts, I find that Fredric acted with the intent to benefit himself as a party, to benefit Viveca and Ingrid while he served as their lawyer, and to benefit his other co-plaintiffs. Specifically, for Viveca he attempted to upset or delay implementation of the dissolution decree. For himself, he sought millions in damages and thousands in fees, including, after only one day as Viveca's lawyer in the dissolution case, moving for \$20,000 in fees. EXs 17, 67 at 2. He estimated he could have earned \$60,000 representing his mother if Sassan and others had not "injured the business expectancies of Fredric." EX 211 at 22.

AGGRAVATING AND MITIGATING FACTORS

192. As to all counts, I find no mitigating factors.
193. As to all counts, I find the following aggravating factors applicable:
- (a) prior disciplinary offense (2002 Oregon admonition, EX 298);
 - (b) dishonest or selfish motive;
 - (c) a pattern of misconduct;
 - (d) multiple offenses; and
 - (g) refusal to acknowledge wrongful nature of conduct.

CONCLUSIONS OF LAW

Violations Analysis

The Hearing Officer finds that the Association proved the following:

194. Count 1. The Association proved Count 1 by a clear preponderance of the evidence. Respondent violated RPC 3.1 (frivolous filings) RPC 3.2 (delaying litigation), RPC 4.4(embarrass, delay or burden a third person) and RPC 8.4(d) (conduct prejudicial to the administration of justice) by filing multiple, meritless post-dissolution motions and other requests for relief in the trial and appellate courts.

195. Count 2. The Association proved Count 2 by a clear preponderance of the evidence. Respondent violated RPC 3.4(c) (knowingly disobey an obligation under the rules of a tribunal), RPC 8.4(j) (willfully disobey a court order), RPC 4.4 (embarrass or burden a third person), RPC 8.4(d) (conduct prejudicial to the administration of justice) and RPC 8.4(a) (violate or attempt to violate the RPC, knowingly assist or induce another to do so , or do so through the acts of another) by filing and preparing lis pendens notices to cloud title to real property ordered sold under his parents' dissolution decree, filing additional litigation used as a basis for filing

additional lis pendens notices and by otherwise attempting to delay or impede the sale of property ordered sold under the dissolution decree.

196. Count 3. The Association proved Count 3 by a clear preponderance of the evidence. Respondent violated RPC 3.1 (frivolous claims), RPC 4.4 (embarrass or burden a third person) and RPC 8.4(d) (conduct prejudicial to the administration of justice) by suing the judges and the court commissioner who denied his post-dissolution motions.

197. Count 4. The Association proved Count 4 by a clear preponderance of the evidence. Respondent violated RPC 8.4(j), RPC 3.4(c) and RPC 8.4(d) by signing and filing lis pendens notices in violation of the May 15, 2003 federal court order.

198. Count 5. The Association proved Count 5 by a clear preponderance of the evidence. Respondent violated RPC 3.1, RPC 8.4(l), RPC 4.4 and RPC 8.4(d) by filing defamation actions against Sassan, Sullivan and MMPSM in state and federal court based on communications to the Association, while ELC 2.12(b) or its predecessor RLD 12.11(b) provided that communications to the Association are privileged and "no lawsuit predicated thereon may be instituted against any grievant."

199. Count 6. The Association proved Count 6 by a clear preponderance of the evidence. Respondent violated RPC 3.4(c) and RPC 8.4(d) by failing to serve other parties to the action with copies of his subpoena for records from Redmond General Insurance Agency. This repeated misconduct that had resulted in an order one year earlier requiring him to withdraw improper financial subpoenas

200. Count 7. The Association proved Count 7 by a clear preponderance of the evidence. Respondent violated RPC 3.2, RPC 4.4 and RPC 8.4(d) by filing similar claims multiple times

and in multiple jurisdictions, making multiple requests for similar relief, failing to appear for deposition and by otherwise prolonging the proceedings.

201. Count 8. The Association proved Count 8 by a clear preponderance of the evidence. Respondent violated RPC 3.1, RPC 3.2, RPC 3.4(c) and RPC 8.4(j) by filing an action and appeal seeking to relitigate the dissolution decree property distribution and by using the partition action as the basis for yet another lis pendens filing clouding title to the real property ordered sold under the decree.

202. Count 9. The Association proved Count 9 by a clear preponderance of the evidence. Respondent violated RPC 8.4(n) by repeatedly violating court orders or rules, repeatedly filing pleadings, motions, appeals or other papers without merit, filing similar claims in multiple forums, otherwise delaying enforcement of his parent's dissolution decree and by forcing his father to defend in multiple courts on multiple grounds.

Sanction Analysis

203. A presumptive sanction must be determined for each ethical violation. In re Anschell, 149 Wn.2d 484, 501, 69 P.2d 844 (2003). The following standards of the American Bar Association's Standards for Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) are presumptively applicable in this case:

6.2 Abuse of the Legal Process

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential

interference with a legal proceeding.

6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

6.24 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with a legal proceeding.

7.0 *Violations of Duties Owed as a Professional*

7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

7.4 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.

Standard 6.2 applies to the RPC 3.1, 3.2, 3.4 and 4.4 violations. Standard 7.0 applies to the RPC 8.4(a) (d) (j) (l) and (n) violations.

204. When multiple ethical violations are found, the “ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations.” In re Petersen, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993).

205. Based on the Findings of Fact and Conclusions of Law and application of the ABA Standards, the appropriate presumptive sanction is disbarment as to each count of the Amended

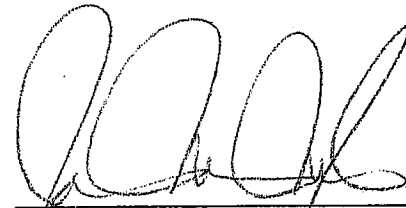
Formal Complaint.

206. Because I find no mitigating factors under Standard 9.32 of the ABA Standards and several aggravating factors under Standard 9.22, I find no reason to depart from the presumptive sanction of disbarment for each count.

Recommendation

207. Based on the ABA Standards and the applicable aggravating and mitigating factors, the Hearing Officer recommends that Respondent Fredric Sanai be disbarred. Reinstatement should be conditioned on payment of any outstanding sanctions.

Dated this 18th day of July, 2007.



Joseph M. Mano, Jr., Bar No. 5728
Hearing Officer

CERTIFICATE OF SERVICE

I certify that I caused a copy of the FFLD's Recommendation
to be delivered to the Office of Disciplinary Counsel and to be mailed
to Fredrick Sanai, Respondent/Respondent's Counsel
at 555 NE 5th St. Yonkers, by Certified/first class mail,
postage prepaid on the 19 day of July, 2007
Sent to and Confidential Home Address
Belen, NY
Clerk/Counsel to the Disciplinary Board